

PROPOSAL

CITY OF SAN DIEGO LAW ENFORCEMENT GUIDELINES REGARDING POSSESSION OF MEDICINAL CANNABIS

I. LAW ENFORCEMENT GUIDELINES FOR PERSONS MEETING CERTAIN CONDITIONS

Persons who come in contact with law enforcement will not be cited, detained longer than necessary to verify their status, or arrested, and cannabis in their possession will not be seized or destroyed, if all of the following conditions are met. Nothing in these guidelines is intended to shield anyone who is breaking the law, nor are these guidelines intended to abrogate or expand any rights created by state law.

A patient whose physician has recommended use of medicinal cannabis in amounts greater than those contained in this section may be issued a Medicinal Cannabis Voluntary Verification card; however, possession of medicinal cannabis in amounts which exceed those stated in Section I will be handled by the San Diego Police Department in accordance with the provisions of Section II of these guidelines.

The following are the conditions which must be met in order to qualify for “safe harbor” treatment by the SDPD:

A. STATUS AS CAREGIVER OR PATIENT

The person must be in lawful possession of a current valid City of San Diego Voluntary Medicinal Cannabis Verification Program card identifying him/her as a verified patient or primary caregiver.

A “primary caregiver” means the individual designated by a patient who has consistently assumed responsibility for the housing, health or safety of that person. Please note that this is written in the disjunctive, meaning that a caregiver need only assume responsibility for one of the listed concerns: housing or health or safety of the patient.

A primary caregiver may be a person whose only responsibility for the patient’s health care is the provision of medical cannabis so long as the relationship between them is consistent, that is, the primary caregiver is the patient’s sole provider of medical cannabis.

A caregiver may care for more than one patient so long as the caregiver is the sole and consistent supplier for each patient. In accordance with City Code s. 42.1306(c)(2) (Verification Card Ordinance,) caregivers wishing to obtain verification cards are limited to no more than ~~42~~ 6 patients.

A primary caregiver may be reimbursed for his/her services by the patient.

B. AMOUNT OF CANNABIS

The following are permissible amounts of medicinal cannabis, representing a “safe harbor” from arrest or long term detention by the San Diego Police Department for persons possessing a current and valid verification card.

1. Processed Marijuana

- a. A patient may possess the total amount of processed marijuana, regardless of growing method, recommended by his/her physician for the length of time recommended by the physician, not to exceed a one year’s supply or three pounds, whichever is less.
- b. A caregiver may possess no more than the amount specified above for each patient for whom the individual serves as a verified caregiver as defined in Section A, not to exceed twelve pounds.

2. Plants

- a. Patients and caregivers are permitted to cultivate marijuana plants in amounts consistent with the physician-recommended needs of the patient(s). Based upon an average yield figure of 100 grams per mature adult plant, the following number of plants is permissible:

i. Plants Grown Indoors

-- A patient may possess a maximum of 72 unharvested plants growing in an area of no more than 94 square feet.

-- A caregiver may possess no more than the amount specified above, growing in the space specified above, for each patient for whom the individual serves as a verified caregiver as defined in Section A, not to exceed a total of 90 plants in a growing area not to exceed 125 square feet.

OR

ii. Outdoor/Greenhouse Plants

-- Outdoor growing areas must be enclosed and secured.

-- A patient may possess a maximum of 20 unharvested plants growing in an area of 100 square feet.

-- A caregiver may possess no more than the amount of unharvested plants specified above, growing in the space specified above, for each patient for whom the individual serves as a verified caregiver, as defined in Section A, not to exceed a total of 90 plants

in a growing area not to exceed 100 square feet.

iii. Combination Indoor and Outdoor Plants

-- Patients and caregivers may utilize both indoor and outdoor cultivation areas; however, the maximum combined number of plants may not exceed 90 and growing areas may not exceed the permissible square footage detailed in sections 2b(1) and 2b(2) above for each category of cultivation.

C. COMPLIANCE WITH SMOKING LAWS

Patients who wish to avail themselves of the “safe harbor” described by this ordinance are not permitted to smoke medicinal cannabis under any circumstances in which the smoking of tobacco is currently prohibited by state or local law.

II. LAW ENFORCEMENT GUIDELINES FOR PERSONS NOT MEETING THESE CONDITIONS

Nothing in these guidelines is intended to reduce or expand the rights of a patient or primary caregiver otherwise authorized by Health and Safety Code §11362.5(d). Under state law, it is possible that physicians may recommend, and patients may possess, amounts of marijuana greater than the amounts specified in these guidelines, depending upon the circumstances of each case. Further, state and local law does not require patients or caregivers to possess voluntary verification cards in order to exercise their rights to use or provide medicinal marijuana.

All instances of possession of marijuana greater than the amounts detailed in Section IB of these guidelines in which medical necessity or caregiver status is asserted will be evaluated by the San Diego Police Department on a case by case basis, taking into account facts such as whether the person is in possession of a current valid Medicinal Cannabis Voluntary Verification Card and whether the amount possessed is consistent with a physician's recommendation. In instances of possession of marijuana by a person not possessing a MCVVC program card, but in which medical necessity or caregiver status is asserted, officers will utilize reasonable discretion, taking into account the totality of the circumstances.

Seizure of Plants: Waiting Period

In any event, cannabis plants within the amounts stated in these guidelines in the possession of a person asserting medical necessity or caregiver status will not be seized for at least 72 hours following a detention. During this 72 hour period, police will investigate the medical necessity or caregiver status claim with all deliberate speed. Police may photograph plants, take samples, and take other reasonable steps that will not interfere with the viability of the plants or the availability of medicine. Police may, at their discretion, immediately seize plants which exceed the number permitted under Section I of these guidelines.

MODEL CAREGIVER CODE OF CONDUCT

In the interest of enhancing the credibility and effectiveness of caregivers under the City of San Diego's medicinal cannabis program, the following voluntary code of conduct is recommended.

The City of San Diego will provide educational and training workshops and materials to assist caregivers in implementing this code.

Recommended Model Code of Conduct

1. Caregivers will maintain a safe, secure, and professional environment at the location where medicinal cannabis is grown and/or stored for patients. Social activities, especially those involving alcohol, entertainment, non-patients, or patients not served by the caregiver are discouraged. Hours of operation designed to minimize the impact upon neighbors will be established. Caregivers will not possess firearms at a location where medicinal cannabis is grown and/or stored.
2. Caregivers will not seek to make a profit from their services, but will only seek reimbursement for costs incurred such as electricity, space, and growing supplies, and fair market value for their labor.
3. Caregivers will strongly encourage all of their patients to apply for a City of San Diego Medicinal Cannabis Voluntary Verification Card.
4. Caregivers will post a sign in their growing area which lists the Verification Card serial number(s) of the persons whom they are serving.
5. Caregivers are strongly encouraged to comply with all licensing, tax, insurance, and other requirements imposed upon providers of similar services.
6. Caregivers will strive to enhance patients' knowledge of medicinal cannabis, physical conditions necessitating its use, methods of medicating oneself with medicinal cannabis, the physical effects of the medicine, and suggestions for how best to balance using the medicine with the concerns of others regarding safety, second hand smoke, impaired abilities, and other related topics.
7. Caregivers will provide instruction and assistance to patients regarding the effective use of medicinal cannabis, alternative delivery systems, and other information that gives patients options and skills for caring for themselves.

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